IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2344 OF 2004

Bharat Kisan Kendale ...Applicant

Versus

State of Maharashtra ...Respondent

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None for Applicant.

Mr.A.S.Gadkari, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 21, 2005.

P.C.

1. Heard learned A.P.P. for the State. This Application is filed through jail. The Applicant was tried for offences punishable under Sections 306, 376, 506, 363 read with Section 34 of the Indian Penal Code. The Applicant was convicted at the end of the trial and was sentenced to undergo life imprisonment and fine of Rs.4,000/- (Rupees Four Thousand), in default, further rigorous imprisonment of one year.

2. In the present Application, which is filed through jail, it is stated that the Applicant comes from a poor family and there is no earning member in his family. Besides, he is in jail since December 1998 and has no means to pay the amount towards fine as imposed by the Trial Court. The learned A.P.P. on instructions, states that the Applicant has not challenged the order of conviction. In other words, that has become final.

3. It is seen from the record that the Applicant was undertrial prisoner from 24th December 1998 to 7th August 2003 and his probable date of release is 23rd April 2006, unless required in some other case.

4. Having regard to the peculiar facts of the present case, as stated in the Application and which is not seriously challenged before this Court, the Applicant deserves a lenient view by relaxing the condition imposed by the Trial Court requiring the Applicant to pay fine in the sum of Rs.4,000/- (Rupees Four Thousand), in default, to

undergo rigorous imprisonment for a period of one year.

5. In the circumstances, the order passed by the Trial Court is modified by requiring the Applicant to pay fine in the sum of Rs.500/- (Rupees Five Hundred), in default, to undergo further simple imprisonment for a period of three months, instead of fine amount of Rs.4,000/- (Rupees Four Thousand) and in default, to undergo rigorous imprisonment for a period of one year as directed by the Court. Accordingly, Application succeeds on the above terms.

6. Copy of this order be forwarded to the Applicant, as this Application is filed through jail.

A.M.KHANWILKAR, J.